

### **REMARKS**

Claims 94-97 are pending in this application. Claims 94-96 have been amended, and new claim 97 has been added. Previously withdrawn claims 1-93 have been canceled, without prejudice. Applicant reserves the right to pursue the original claims and other claims in this and other applications. In view of the amendments to the claims and the remarks below, Applicant respectfully requests that the rejections be withdrawn and the claims be allowed.

Claims 94-96 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Application No. 2003/0053405 to Kondo ("Kondo"). The rejection is respectfully traversed.

Claim 94 recites an information recording medium having a plurality of recording layers, and a track on each recording layer including wobbles of modulated information. Claim 94, as amended, recites that "the wobbles are recorded with FSK+PSK modulated information" as layer information indicating a place or position of each recording layer. An example of FSK+PSK modulation is explained in the original disclosure at page 82, line 22 to page 84, line 8 and FIG. 26 of the specification.

According to the features of independent claim 94, it is possible to ensure resistance against crosstalk even in the case of an information recording medium having a plurality of recording layers such that there are concerns as to the deterioration of the wobble signal, to thereby enable accurate discrimination of the layer information, as described, for example, on page 82, line 22 to page 89, line 5 of the specification. These advantageous effects are not disclosed in Kondo and cannot be expected in Kondo.

Kondo does not teach or suggest FSK+PSK modulation, and the Office Action does not contend otherwise. At best, Kondo describes only FSK modulated information ("frequency shift modulation" in the abstract and paragraph [0240]). Kondo merely mentions, for example, that "a two-layer information recording carrier 1 may be so constructed by the address recording on the first layer is executed by frequency shift modulation with saw tooth wave type 1 as its basic wave while the address recording on the second layer is executed by frequency shift modulation with saw tooth wave type 2 as the basic wave." Kondo at [0240]. The amendment to claim 94 removes the

alternative language (i.e., the prior recitation of FSK, PSK, or FSK+PSK modulated information), and instead positively recites the use of FSK+PSK modulation. Claim 94, as amended, is therefore allowable.

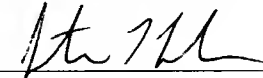
In reference to claims 95 and 96, the Office Action, at page 4, asserts that the recitation of FSK+PSK modulated information in claims 95 and 96 was not given patentable weight because the limitation was not considered a positive recitation. The Office Action also notes that the rejections of the claims could be overcome by amending them to positively recite the noted limitations. Since claim 94 has been amended to positively recite FSK+PSK modulation, and since claims 95 and 96 depend from claim 94, applicant submits that the claims, as amended, are allowable. Applicant respectfully requests that the rejection be withdrawn and the claims be allowed.

New claim 97 is allowable over the prior art for similar reasons that claim 94 is allowable, and for other reasons. Claim 97 includes all limitations of claim 94, including that “the wobbles are recorded with FSK+PSK modulated information as layer information indicating a place or position of each recording layer.” As explained above, Kondo does not teach or suggest FSK+PSK modulation. Claim 97 recites an additional important feature, that the modulated information “stores information in the wobbles by a wobble waveform having 2 times a carrier wave period or 1/2 a carrier wave frequency and changing a phase between 0 degree and 180 degrees.” This additional feature is not taught or suggested by Kondo, which does not describe modulating information by changing the carrier wave period or frequency and the phase, much less changing these elements according to the specific parameters recited in claim 97. Claim 97 is therefore allowable for this additional reason.

In view of the above, applicant believes the pending application is in condition for allowance. If there are any additional charges in connection with this filing or any subsequent filings (including but not limited to issue fees), the Examiner is respectfully requested and authorized to charge Deposit Account No. 04-1073 therefor under Order No. R2184.0475/P475.

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Respectfully submitted,

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